THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION Nos.8261 & 14789 of 1997

Dated 16-04-2007

W.P.No.8261 of 1997
Between:
Smt.K.Vijaya Lakshmi.

..... PETITIONER

AND

The Vice Chairman & Managing Director, A.P.State Civil Supplies Corporation Ltd, Somajiguda, Hyderabad.

.....RESPONDENT

W.P.No.14789 of 1997
Between:
Smt.K.Vijaya Lakshmi.

..... PETITIONER

AND

The Vice Chairman & Managing Director, A.P.State Civil Supplies Corporation Ltd, Somajiguda, Hyderabad.

.....RESPONDENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.8261 & 14789 of 1997

COMMON ORDER:

Heard Sri G.Vidya Sagar, learned counsel for the petitioner, and Sri D.Linga Rao, learned standing counsel for the Civil Supplies Corporation. Both these writ petitions were heard together and are being disposed of by a common order.

Seeking to have the impugned order of punishment dated 18-03-1997 quashed, whereby the petitioner was imposed the punishment of stoppage of one annual increment with cumulative effect and the loss of Rs.51,605.75ps/- sustained by the corporation was directed to be recovered from the petitioner in lump sum, the present writ petition is filed.

The main contention of Sri G.Vidya Sagar, learned counsel for the petitioner, is that the officer, who conducted the preliminary enquiry had himself conducted the departmental enquiry and had submitted his report, that the enquiry was a sham wherein except recording the statement of the petitioner, no witnesses were examined on behalf of the Management nor was any evidence let in to establish the charge. Learned counsel would submit that since the petitioner had not admitted her guilt, and had specifically denied the charges levelled against her, the burden of establishing the charge was on the respondents and it is only after this initial burden was discharged, could the burden be said to have shifted on to the petitioner.

Sri D.Linga Rao, learned standing counsel for the respondent-Corporation, while fairly conceding that the enquiry

proceedings held against the petitioner is in violation of principles of natural justice, would, nonetheless, contend that even if the enquiry is said to be vitiated necessitating the order of punishment being set aside, the respondents should be given liberty to proceed with the enquiry in accordance with rules, in conformity with principles of natural justice and to take action thereafter against the petitioner in accordance with law. Learned standing counsel would further submit that the charges levelled against the petitioner are grave and serious in nature and that the petitioner should not be permitted to go scot-free for such grave irregularities.

I find considerable force in the submission of Sri D.Linga Rao, learned standing counsel for the respondent- Corporation. Since the entire enquiry proceedings have been held in violation of the basic principles of natural justice the impugned order of punishment dated
18-03-1997 is quashed. Needless to state that this order shall not preclude the respondent, if it so chooses, to conduct the enquiry in accordance with the rules and in conformity with principles of natural justice and, thereafter, take appropriate action in accordance with law.

Sri G.Vidya Sagar, learned counsel for the petitioner, would, however, submit that the petitioner has been needlessly victimized and has been denied promotion to the post of Assistant Manager on the basis of the punishment imposed pursuant to the sham enquiry. Learned counsel would submit that since the enquiry proceedings are now quashed, the petitioner should be held automatically entitled for promotion. Learned counsel would fairly state that the petitioner has, subsequently, been promoted to the post of Assistant Manager in the normal course.

Sri D.Linga Rao, learned standing counsel for the respondent- Corporation, on the other hand, would contend that since the charges levelled against the petitioner are grave and serious in nature, promoting the petitioner during the pendency of the enquiry proceedings would confer on her a benefit which she was not entitled to.

The only question, which arises for consideration is whether the petitioner is entitled for promotion from the anterior date from which she was denied promotion on account of the pendency of disciplinary proceedings or not and since this question would depend on the outcome of the departmental enquiry, ends of justice would be met if a time frame is fixed for completion of the enquiry. In case the respondents intend to hold an enquiry against the petitioner, and take disciplinary action against her in accordance with law, they shall do so within a period of four months from the date of receipt of a copy of this order, failing which, the petitioner will be entitled to be considered for promotion to the post of Assistant Manager from the earlier date from which she was entitled to be considered but for the pendency of the disciplinary proceedings.

Both the Writ Petitions are accordingly disposed of. No order as to costs.

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16-04-2007

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